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**OFFICE OF PETITIONS**

In re Application of	:	
Mike Daily et al.	:	
Application No. 09/690,574	:	DECISION ON RENEWED
Filed: October 17, 2000	:	PETITION UNDER 37 C.F.R.
Attorney Docket No. HRL048	:	\$ 1.181(A)
Title: AUDIO ON LOCATION	:	

This is a decision on the renewed petition pursuant to 37 C.F.R. § 1.181(a), filed on July 30, 2007.

BACKGROUND

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R § 1.113 in a timely manner to the final Office action mailed August 9, 2004, which set a shortened statutory period for reply of three months. An after-final amendment was received on October 8, 2004, and an advisory action was mailed on November 30, 2004. An appeal brief was filed on March 3, 2005, however a notice of appeal was not filed prevenient thereto. No extensions of time under the provisions of 37 C.F.R § 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on November 10, 2004. A notice of abandonment was mailed on January 23, 2007.

### PROCEDURAL HISTORY

The original petition was filed on April 16, 2007, and was dismissed via the mailing of a decision on June 21, 2007.

The decision on then original petition set forth:

The showing in the present petition is not sufficient to withdraw the holding of abandonment.

Petitioner has asserted that a notice of appeal was timely submitted to the Office on December 30, 2004. Petitioner has submitted a copy of this notice of appeal, and it is noted that it contains both an authorization to charge both a credit card and a Deposit Account, as well as a certificate of mailing dated December 30, 2004.

The electronic file has been reviewed, and it does not appear to contain a copy of this submission.

Certificate of mailing practice provides a mechanism by which Applicants may evince that a paper was timely submitted to the Office, in the event that the correspondence is not received.

Petitioner's submission has been reviewed: with the present petition, Petitioner has informed the Office of the previous mailing and provided an additional copy of the previously submitted correspondence. However, it is noted that the certificate of facsimile transmission was executed by one Scott Davison, and it does not appear that Petitioner has included a statement from this individual. 37 C.F.R. §1.8(b)(3) requires the inclusion of a statement that attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. On renewed petition, Petitioner may wish to include a statement from Mr. Davison.

Emphasis included.

### ANALYSIS

With this renewed petition, Petitioner has submitted a statement of facts from Mr. Davison.

### CONCLUSION

Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that Petitioner has met his burden of establishing that a complete response was timely submitted, pursuant to 37 C.F.R. § 1.8.

Accordingly, the petition under 37 C.F.R. §1.181(a) is GRANTED. The holding of abandonment is **WITHDRAWN**.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the Notice of Appeal, which was submitted with both the original and this renewed petition, can be processed.

The Notice of Appeal, originally submitted on December 30, 2004, has been entered and made of record. Accordingly, **the two-month period for filing the Appeal Brief, accompanied by the fee required by law, runs from the mailing date of this decision.**

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.



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